

## **§ 206.32**

### **§ 206.32 No outstanding unpaid obligations.**

In order for a mortgage to be eligible under this part, a mortgagor must establish to the satisfaction of the mortgagee that:

(a) After the initial payment of loan proceeds under § 206.25(a), there will be no outstanding or unpaid obligations incurred by the mortgagor in connection with the mortgage transaction, except for repairs to the property required under § 206.47 and mortgage servicing charges permitted under § 206.207(b); and

(b) The initial payment will not be used for any payment to or on behalf of an estate planning service firm.

[64 FR 2988, Jan. 19, 1999]

#### **ELIGIBLE MORTGAGORS**

### **§ 206.33 Age of mortgagor.**

The youngest mortgagor shall be 62 years of age or older at the time the mortgagee submits the application for insurance.

[61 FR 49033, Sept. 17, 1996]

### **§ 206.35 Title held by mortgagor.**

The mortgagor shall hold title to the entire property which is the security for the mortgage. If there are multiple mortgagors, all the mortgagors must collectively hold title to the entire property which is the security for the mortgage. If one or more mortgagors hold a life estate in the property, for purposes of this section only the term "mortgagor" shall include each holder of a future interest in the property (remainder or reversion) who has executed the mortgage.

[54 FR 24833, June 9, 1989, as amended at 61 FR 49033, Sept. 17, 1996]

### **§ 206.37 Credit standing.**

Each mortgagor must have a general credit standing satisfactory to the Secretary.

### **§ 206.39 Principal residence.**

The property must be the principal residence of each mortgagor at closing. For purposes of this section, the property will be considered to be the prin-

## **24 CFR Ch. II (4-1-11 Edition)**

cipal residence of any mortgagor who is temporarily or permanently in a health care institution as long as the property is the principal residence of at least one other mortgagor who is not in a health care institution.

### **§ 206.40 Disclosure and verification of Social Security and Employer Identification Numbers.**

The mortgagor must meet the requirements for the disclosure and verification of Social Security and Employer Identification Numbers, as provided by part 200, subpart U, of this chapter.

[60 FR 42760, Aug. 16, 1995]

### **§ 206.41 Counseling.**

(a) *List provided.* At the time of the initial contact with the prospective mortgagor, the mortgagee shall give the mortgagor a list of the names, addresses, and telephone numbers of housing counselors and their employing agencies, which have been approved by the Secretary, in accordance with subpart E of this part, as qualified and able to provide the information described in paragraph (b) of this section. The mortgagor must receive counseling.

(b) *Information to be provided.* A counselor must discuss with the mortgagor:

(1) The information required by section 255(f) of the National Housing Act;

(2) Whether the mortgagor has signed a contract or agreement with an estate planning service firm that requires, or purports to require, the mortgagor to pay a fee on or after closing that may exceed amounts permitted by the Secretary or this part; and

(3) If such a contract has been signed under § 206.41(b)(2), the extent to which services under the contract may not be needed or may be available at nominal or no cost from other sources, including the mortgagee.

(c) *Certificate.* The counselor will provide the mortgagor with a certificate stating that the mortgagor has received counseling. The mortgagor shall

## Office of Assistant Secretary for Housing, HUD

## § 206.47

provide the mortgagee with a copy of the certificate.

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[54 FR 24833, June 9, 1989, as amended at 61 FR 49033, Sept. 17, 1996; 64 FR 2988, Jan. 19, 1999; 74 FR 45316, Sept. 2, 2009]

### § 206.43 Information to mortgagor.

(a) *Disclosure of costs of obtaining mortgage.* The mortgagee must ensure that the mortgagor has received full disclosure of all costs of obtaining the mortgage. The mortgagee must ask the mortgagor about any costs or other obligations that the mortgagor has incurred to obtain the mortgage, as defined by the Secretary, in addition to providing the Good Faith Estimate required by § 3500.7 of this title. The mortgagee must clearly state to the mortgagor which charges are required to obtain the mortgage and which are not required to obtain the mortgage.

(b) *Lump sum disbursement.* (1) If the mortgagor requests that at least 25% of the principal limit amount (after deducting amounts excluded in the following sentence) be disbursed at closing to the mortgagor (or as otherwise permitted by § 206.29), the mortgagee must make sufficient inquiry at closing to confirm that the mortgagor will not use any part of the amount disbursed for payments to or on behalf of an estate planning service firm, with an explanation of § 206.32 as necessary or appropriate.

(2) This paragraph does not apply to any part of the principal limit used for the following:

(i) Initial MIP under § 206.105(a) or fees and charges allowed under § 206.31(a) paid by the mortgagee from mortgage proceeds instead of by the mortgagor in cash; and

(ii) Amounts set aside under § 206.47 for repairs, under § 206.205(f) for property charges, or § 206.207(b).

[64 FR 2988, Jan. 19, 1999]

### ELIGIBLE PROPERTIES

#### § 206.45 Eligible properties.

(a) *Title.* A mortgage must be on real estate held in fee simple, *or* on a leasehold under a lease for not less than 99 years which is renewable, *or* under a

lease having a remaining period of not less than 50 years beyond the date of the 100th birthday of the youngest mortgagor. The mortgagee shall obtain a mortgagee's title insurance policy satisfactory to the Secretary. If the Secretary determines that title insurance for reverse mortgages is not available for reasonable rates in a State, then the Secretary may specify other acceptable forms of title evidence in lieu of title insurance.

(b) *Type of property.* The property shall include a dwelling designed principally as a residence for one family or such additional families as the Secretary shall determine. A condominium unit designed for one-family occupancy shall also be an eligible property.

(c) *Flood insurance and property location.* The provisions of § 203.16a of this chapter pertaining to flood insurance and § 203.40 of this chapter pertaining to the location of the property are incorporated by reference.

(d) *Lead-based paint poisoning prevention.* If the appraiser of a dwelling constructed prior to 1978 finds defective paint surfaces, § 200.810(d) of this chapter shall apply unless the mortgagor certifies that no child who is less than six years of age resides or is expected to reside in the dwelling.

(e) *Restrictions on conveyance.* The property must be freely marketable. Conveyance of the property may only be restricted as permitted under 24 CFR 203.41 or 24 CFR 234.66 and this part, except that a right of first refusal to purchase a unit in a condominium project is permitted if the right is held by the condominium association for the project.

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[54 FR 24833, June 9, 1989, as amended at 60 FR 42760, Aug. 16, 1995; 60 FR 66476, Dec. 21, 1995; 61 FR 36266, July 9, 1996; 61 FR 49033, Sept. 17, 1996; 63 FR 17656, Apr. 9, 1998]

#### § 206.47 Property standards; repair work.

(a) *Need for repairs.* Properties must meet the applicable property standards of the Secretary in order to be eligible. Properties which do not meet the property standards must be repaired in